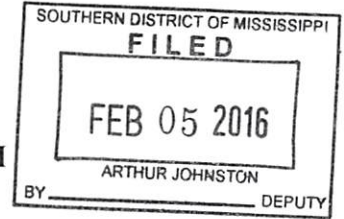


UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION



JAMES S. OLIN

PLAINTIFF

VS.

CIVIL ACTION NO.: 1:16cv34LG-RHW

LUTHER, COLLIER, HODGES & CASH, LLP;  
LUCIEN HODGES; SAM GAILLARD LADD, JR.;  
AND JOHN DOES 1-10

DEFENDANTS

---

NOTICE OF REMOVAL

---

TO: R. Hayes Johnson, Esq.  
Attorney at Law  
1902 21<sup>st</sup> Ave.  
Gulfport, MS 39501  
**Attorney for Plaintiff**

Hon. Connie Ladner  
Harrison County Circuit Clerk  
P.O. Box 235  
Biloxi, MS 39533  
**Harrison County Circuit Clerk**

Pursuant to 28 U.S.C. § 1332, Defendants Luther, Collier, Hodges & Cash, LLP, Lucian Hodges, and Sam Gaillard Ladd, Jr., hereby removes this Action, and gives notice of the removal of this Action, from the Circuit Court of Harrison County Mississippi, Second Judicial District, to the United States District Court for the Southern District of Mississippi, Southern Division. As grounds for this removal, Defendants state as follows:

## **INTRODUCTION**

Plaintiff James S. Olin filed this Complaint on June 26, 2015 in the Circuit Court of Harrison County Mississippi, Second Judicial District against Defendants. See Complaint attached hereto as Exhibit "1". Plaintiff has asserted state court claims over which this Court has jurisdiction under 28 U.S.C. § 1332 in that this controversy is between citizens of different states and the amount in controversy exceeds \$ 75,000, exclusive of interest and costs.

### **A. The Notice of Removal is Timely.**

According to the General Docket of the Circuit Court of Harrison County Mississippi, Second Judicial District, a copy of which is attached as Exhibit "2" Plaintiff served a copy of the summons and complaint upon Defendant Luther, Collier, Hodges & Cash, LLP on October 1, 2015. See Exhibit "3" (Executed Return). The General Docket also reflects that a summons and complaint were served upon Defendant Lucien Hodges on October 1, 2015. See Exhibit "4" (Executed Return). A summons and complaint were served upon Defendant Sam Gaillard Ladd, Jr. on October 1, 2015. See Exhibit "5".

Originally this action was filed by Plaintiff James S. Olin, an adult resident of the State of Florida, see Exhibit "1" (Complaint at ¶ 1), John G. McNeil, an adult resident of the State of Florida, see Exhibit "1" (Complaint at ¶ 1) and Plaintiff John A. McNeil, Jr., an adult resident of the State of Alabama, see Exhibit "1" (Complaint at ¶ 1). Defendant Luther, Collier, Hodges & Cash, LLP is an Alabama limited liability partnership consisting of Jeffrey L. Luther an adult resident citizen of the State of Alabama, Danny Collier an adult resident citizen of the State of Alabama, Lucian Hodges an adult resident citizen of the State of Alabama, and Regina Cash, an adult resident

citizen of the State of Alabama. See Exhibit “6” (Declaration of Danny Collier). At the time the Complaint was originally filed on June 26, 2015 there was not complete diversity of citizenship as one of the Plaintiffs John A. McNeil, Jr. and the Defendants were residents of the same state, Alabama. Therefore, at the time the Complaint was filed this action was not removable because there was not complete diversity of citizenship as required by 28 U.S.C. § 1332.

On January 15, 2016 the Circuit Court of Harrison County Mississippi, Second Judicial District, entered an order dismissing Plaintiffs John A. McNeil, Jr. and John G. McNeil. See Exhibit “7”( Order of Dismissal). Because of the dismissal of the non-diverse party John A. McNeil, Jr., this action became removable to this case pursuant to 28 U.S.C. § 1332 because there existed complete diversity of citizenship of the parties.

Accordingly, this Notice of Removal is timely filed within thirty (30) days of receipt of the pleading from which the Defendants could ascertain that the case is, or has become, removable. *Mumfrey v CVS Pharmacy, Inc.*, 719 F. 3d 392, 397-98 (5<sup>th</sup> Cir. 2013). Such removal is, therefore, timely under 28 U.S.C. 1446(b). See, *Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 356 (1999).

**B. The Parties.**

Plaintiff James S. Olin has plead that he is an adult resident citizen of the State of Tennessee. See Exhibit “1” (Complaint at ¶ 1). Defendant Luther, Collier, Hodges & Cash, LLP is an Alabama limited liability partnership consisting of Jeffrey L. Luther an adult resident citizen of the State of Alabama, Danny Collier an adult resident citizen of the State of Alabama, Lucian Hodges an adult resident citizen of the State of Alabama, and Regina Cash, an adult resident citizen of the State of

Alabama. See Exhibit “6” (Declaration of Danny Collier). James S. Olin has plead that Defendant Lucian Hodges is an adult resident citizen of the State of Alabama, see Exhibit “1” (Complaint at ¶ 3), and that Defendant Sam Gaillard Ladd, Jr., is an adult resident citizen of the State of Alabama, see Exhibit “1” (Complaint at ¶ 4).

The Plaintiff has also named fictional John Does as Defendants in the Complaint. Pursuant to 28 U.S.C. § 1441(b)(1) the citizenship of a defendant sued under a fictitious name is disregarded in determining diversity jurisdiction.

**C. Facts Alleged in the Complaint.**

According to the Complaint, the Defendants were retained to request the Plaintiff in a law suit styled *BancorpSouth v. Sterling Development Company, LLC, et al.* See Exhibit “1” (Complaint at ¶ 23). The Complaint alleges that as a result of Defendants’ breach of their duty of care to the Plaintiff, a \$1.9 Million dollar judgment was entered against the Plaintiff. See Exhibit “1” (Complaint at ¶ 25). The Plaintiff’s Complaint seeks to recover compensatory damages, attorney fees, and costs from the Defendants. See Exhibit “1” (Complaint at ¶ 26).

**D. Basis for Federal Jurisdiction**

28 U.S.C. § 1332 allows removal of a civil action where the matter in controversy exceeds the sum of \$75,000 exclusive of interest and costs, and the action is between citizens of different states. Because the Plaintiff has plead damages in excess of \$75,000, the amount in controversy has been satisfied. Because this action is between citizens of different states, it is clearly removable pursuant to 28 U.S.C. 1332.

**E. Notice of Filing**

Contemporaneously with the filing of this Notice of removal, Defendants will file a copy of the same with the Clerk of the Circuit Court of Harrison County, Mississippi, Second Judicial District, in accordance with 28 U.S.C. § 1446(d). Pursuant to 28 U.S.C. § 1446(a) Defendants attach as Exhibit "8" a copy of all process, pleadings, and orders served upon the defendants in the state court action. Pursuant to 28 U.S.C. § 1446(a) and Uniform Local Rule 5(b) defendants attach as Exhibit "9" a copy of the complete state court file.

WHEREFORE, Defendants, by and through their counsel of record, Copeland, Cook, Taylor & Bush, P.A., files this Notice of Removal and removes this civil action from the Circuit Court of Harrison County, Mississippi, Second Judicial District, to the United States District Court for the Southern District of Mississippi, Southern Division. Plaintiff is hereby notified to proceed no further in state court.

Respectfully submitted, this the 5th day of February, 2016.

LUTHER, COLLIER, HODGES & CASH, LLP;  
LUCIEN HODGES; SAM GAILLARD LADD, JR.

BY: COPELAND, COOK, TAYLOR & BUSH, PA

BY:

  
WILLIAM E. WHITFIELD, III

Mississippi Bar No. 7161

JAMES E. WELCH, JR.

Mississippi Bar No. 7090

---

**CERTIFICATE OF SERVICE**


---

I, James E. Welch, Jr., of the law firm of Copeland, Cook, Taylor & Bush, P.A., do hereby certify that I have this date mailed, by United States mail, postage prepaid, a true and correct copy of the above and foregoing Notice of Removal to the following:

R. Hayes Johnson, Esq.  
Attorney at Law  
1902 21<sup>st</sup> Ave.  
Gulfport, MS 39501  
**Attorney for Plaintiff**

Hon. Connie Ladner  
Harrison County Circuit Clerk  
P.O. Box 235  
Biloxi, MS 39533  
**Harrison County Circuit Clerk**

So certified, this the 5th day of February, 2016.



---

WILLIAM E. WHITFIELD, III  
Mississippi Bar No. 7161  
JAMES E. WELCH, JR.  
Mississippi Bar No. 7090

William E. Whitfield, III.  
James E. Welch, Jr.  
COPELAND, COOK, TAYLOR, & BUSH, P.A.  
2781 C.T. Switzer Sr. Drive, Suite 200  
Biloxi, Mississippi 39531  
P.O. Box 10  
Gulfport, Mississippi 39502-0010  
telephone (228) 863-6101  
telecopier (228) 863-9526